

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

HENRY L. MURPHY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 3:05-CV-501-MHT
	)	[WO]
	)	
JIMMY ABBOTT, et al.,	)	
	)	
Defendants.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

On May 27, 2005, Henry L. Murphy [“Murphy”], a county inmate, filed this action pursuant to 42 U.S.C. § 1983. On February 15, 2006, this court entered an order, a copy of which the Clerk mailed to the plaintiff. Postal authorities returned this order because Murphy was no longer at the address he had provided for service. In the order of procedure entered in this case, the court specifically instructed the plaintiff to immediately inform the court of any new address. *See Order of June 28, 2005 - Court Document No. 5* at 5.

Because Murphy failed to comply with this directive, the court entered an order requiring that on or before March 9, 2006 Murphy show cause why this case should not be dismissed as “[t]his case cannot properly proceed in this court if [his] whereabouts . . . remain unknown.” *See Order of February 28, 2006 - Court Doc. No. 10* at 1. The court cautioned Murphy that failure to comply with such order would result in a recommendation that this case be dismissed. *Id.* at 2. As of the present date, Murphy has filed nothing in

response to the February 28, 2006 order. The court therefore concludes that this case is due to be dismissed.

### **CONCLUSION**

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to prosecute this action and his failure to comply with the orders of this court.

It is further

ORDERED that on or before March 28, 2006 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d

33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 14<sup>th</sup> day of March, 2006.

/s/ Vanzetta Penn McPherson  
UNITED STATES MAGISTRATE JUDGE